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State of New York

IN SENATE

January 10, 1955

REPORT OF THE COMMISSIONER OF THE DEPARTMENT OF SOCIAL SERVICES

ON THE STATE OF NEW YORK

IN SENATE

In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 422

RANCO INC., PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

The Solicitor General files this memorandum on behalf of the National Labor Relations Board.

The question presented is whether an employer violates Section 8 (a) (1) of the National Labor Relations Act, as amended, by prohibiting non-employee organizers from distributing union literature on his plant parking lot during the employees' free time, where the Board finds that it is unreasonably difficult for the union to reach the employees off company property in the immediate vicinity of the plant. Although we be-

lieve that the decision of the court below is correct in upholding the Board's determination that petitioner's prohibition against the distribution of union literature by nonemployee organizers on the plant parking lot constituted a violation of Section 8 (a) (1), the decision, as petitioner states, is in conflict with the decision of the Fifth Circuit in *National Labor Relations Board v. Babcock & Wilcox*, 222 F. 2d 310, and that of the Tenth Circuit in *National Labor Relations Board v. Seamprufe, Inc.*, 222 F. 2d 858. Because of the conflict and the importance of the question in the administration of the Act, the Government has filed petitions for certiorari to review the decisions of the Fifth and Tenth Circuits in the cited cases, Nos. 250 and 251, respectively, this Term.

It would, in our view, be appropriate for this Court in resolving the conflict to review both the instant decision and the cited decisions of the Fifth and Tenth Circuits. For the foregoing reasons, the Government does not oppose the granting of a writ of certiorari in this case.

Respectfully submitted.

SIMON E. SOBELOFF,
Solicitor General.

THEOPHIL C. KAMMHOLZ,
General Counsel,
National Labor Relations Board.

SEPTEMBER 1955.